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| BELL, BOYD & LLOYD LLC | | | SKAARUP, JASON M | |
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3714

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,421

Applicant(s)

HUGHS-BAIRD ET AL.

Examiner

Jason Skaarup

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/6/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The Examiner considered the Information Disclosure Statement (IDS) submitted on December 6, 2004.

Claim Objections

2. Claims 1, 10, 20, 33 and 44 are objected to because of informalities contained therein.

Claims 1 and 20 each recite the limitation "the displayed picks indicators" in the last line thereof. Claims 1 and 20 each recite the limitation "at least one picks indicator", but do not provide proper antecedent basis for the limitation "the displayed picks indicators". Applicant might consider replacing the limitation "the displayed picks indicators" with the limitation "the displayed at least one picks indicator" in claims 1 and 20, respectively. Appropriate correction is required.

Claims 10 and 33 each recite the limitation "the displayed picks indicators" in the last line thereof. Claims 10 and 33 each recite the limitation "at least one picks indicator", but do not provide proper antecedent basis for the limitation "the displayed picks indicators". Applicant might consider replacing the limitation "the displayed picks indicators" with the limitation "the displayed at least one picks indicator" in claims 10 and 33, respectively. Appropriate correction is required.

Claim 44 recites the limitation "wherein the data network is an internet" in the first line thereof. Claim 44 depends from claim 33, but claim 33 does not provide proper

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antecedent basis for the limitation "the data network" recited in claim 44. Applicant might consider amending claim 44 to depend from claim 43 instead of claim 33 since claim 43 provides proper antecedent basis for the limitation "the data network" recited in claim 44. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-14, 17-20, 23-26, 28-30, 33-37 and 40-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Frohm et al. (U.S. Patent No. 6,592,457).

Frohm et al. disclose a gaming device (10) as recited in claim 1. The disclosed gaming device (10) comprises:

a game operable upon a wager (Figures 3A and 3B along with the related description thereof);

a display device (displays 14, 16 of Figures 3A and 3B along with the related description thereof);

a first selection group (hook punch type of col. 3, lines 43-59) including a plurality of first selections (boxing gloves 30 associated with the hook punch type) adapted to be

displayed by the display device (Figure 3B along with the related description thereof, wherein the punch type for each player selectable glove 30 is written over the gloves 30 as described in col. 3, lines 47-49);

at least one award indicator (punch outcome from Table 1 of col. 4) adapted to be displayed by the display device (display 14, 16) after one of the first selections (boxing gloves 30 associated with hook punch type) is picked (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30);

at least one picks indicator ("remaining picks") adapted to be displayed after one of the first selections is picked (Figure 3B along with the related description thereof);

a second selection group (jab punch type of col. 3, lines 43-59) including a plurality of second selections (boxing gloves 30 associated with the jab punch type) adapted to be displayed by the display device (Figure 3B along with the related description thereof, wherein the punch type for each player selectable glove 30 is written over the gloves 30 as described in col. 3, lines 47-49);

at least one award indicator (punch outcome from Table 1 of col. 4) adapted to be displayed by the display device (display 14, 16) after one of the second selections (boxing gloves 30 associated with jab punch type) is picked (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30); and

a number of second selection picks (picks or selections 36) in the second selection group (boxing gloves 30 associated with the jab punch type) corresponding at least in part to the displayed pick indicator (Figure 3B along with the related description thereof, wherein a player has a number of picks or selections 36 shown by the

“remaining picks” available to the player from which the player can select boxing gloves 30 associated with a certain punch type and having a certain punch outcome).

Regarding claim 2, Frohm et al. disclose that a plurality of award indicators are displayed after a plurality of first selections are picked (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30).

Regarding claim 3, Frohm et al. disclose that a plurality of award indicators are displayed after a plurality of second selections are picked (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30).

Regarding claim 4, Frohm et al. disclose that a plurality of picks indicators (“remaining picks”) are displayed after a plurality of first selections are picked (Figure 3B along with the related description thereof, wherein a plurality of picks 36 are displayed as “remaining picks” after a plurality of boxing gloves 30 are picked).

Regarding claim 5, Frohm et al. disclose that a plurality of award indicators are displayed, wherein for each of the second selections picked, one of the award indicators is displayed (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30).

Regarding claims 7, 8 and 9, Frohm et al. disclose that the first and second selections are player selectable (Figure 3B along with the related description thereof, wherein boxing gloves 30 are player selectable as described in col. 3, lines 43-49).

Frohm et al. disclose a gaming method as recited in claim 20. The disclosed gaming method comprises:

displaying a first selection group (hook punch type of col. 3, lines 43-59) including a plurality of first selections (boxing gloves 30 associated with the hook punch type of Figure 3B along with the related description thereof, wherein the punch type for each player selectable glove 30 is written over the gloves 30 as described in col. 3, lines 47-49);

displaying a first award indicator (punch outcome from Table 1 of col. 4) after one of the first selections (boxing gloves 30 associated with hook punch type) is picked (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30);

displaying a picks indicator ("remaining picks") after one of the first selections is picked (Figure 3B along with the related description thereof);

displaying a second selection group (jab punch type of col. 3, lines 43-59) including a plurality of second selections (boxing gloves 30 associated with the jab punch type of Figure 3B along with the related description thereof, wherein the punch type for each player selectable glove 30 is written over the gloves 30 as described in col. 3, lines 47-49); and

displaying a second award indicator (punch outcome from Table 1 of col. 4) after one of the second selections (boxing gloves 30 associated with jab punch type) is picked (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30), wherein a number of second selection picks (picks or selections 36) in the second selection group (boxing gloves 30 associated with the jab punch type) corresponds at least in part to the displayed pick indicator (Figure 3B along

with the related description thereof, wherein a player has a number of picks or selections 36 shown by the "remaining picks" available to the player from which the player can select boxing gloves 30 associated with a certain punch type and having a certain punch outcome).

Regarding claim 23, Frohm et al. disclose that a plurality of award indicators are displayed after a plurality of first selections are picked (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30).

Regarding claim 24, Frohm et al. disclose that a plurality of award indicators are displayed after a plurality of second selections are picked (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30).

Regarding claim 25, Frohm et al. disclose that a plurality of picks indicators ("remaining picks") are displayed after a plurality of first selections are picked (Figure 3B along with the related description thereof, wherein a plurality of picks 36 are displayed as "remaining picks" after a plurality of boxing gloves 30 are picked).

Regarding claim 26, Frohm et al. disclose that a plurality of award indicators are displayed, wherein for each of the second selections picked, one of the award indicators is displayed (col. 4, lines 3-43, wherein a punch outcome from Table 1 is displayed for each selected boxing glove 30).

Regarding claims 28, 29 and 30, Frohm et al. disclose that the first and second selections are player selectable (Figure 3B along with the related description thereof, wherein boxing gloves 30 are player selectable as described in col. 3, lines 43-49).

Further, Frohm et al. disclose a gaming device (10) as recited in claim 10. The disclosed gaming device (10) comprises:

- a game operable upon a wager (Figures 4A and 4B along with the related description thereof);

- a display device (displays of Figures 4A and 4B along with the related description thereof);

- a first selection group (run play type of col. 5, line 63 to col. 6, line 12) including a plurality of first selections (footballs 130 associated with the run play type) adapted to be displayed by the display device (Figure 4B along with the related description thereof, wherein the play type for each player selectable football 130 is written over the footballs 130 as described in col. 6, lines 1-3);

- at least one award indicator (play outcome from Table 2 of col. 6) adapted to be displayed by the display device (displays of Figures 4A and 4B along with the related description thereof) after one of the first selections (footballs 130 associated with run play type) is picked (col. 6, lines 20-45, wherein a play outcome from Table 2 is displayed for each selected football 130);

- a second selection group (pass play type of col. 5, line 63 to col. 6, line 12) including a plurality of second selections (footballs 130 associated with the pass play type) adapted to be displayed by the display device (Figure 4B along with the related description thereof, wherein the play type for each player selectable football 130 is written over the footballs 130 as described in col. 6, lines 1-3);

at least one picks indicator ("remaining picks") adapted to be displayed after one of the second selections is picked (Figure 4B along with the related description thereof);

a third selection group (defensive play type of col. 7, lines 21-27) including a plurality of third selections (footballs 130 associated with the defensive play type);

at least one award indicator (play outcome from Table 2 of col. 6) adapted to be displayed by the display device (displays of Figures 4A and 4B along with the related description thereof) after one of the third selections (footballs 130 associated with defensive play type) is picked (col. 6, lines 20-45 and col. 7, lines 21-27, wherein a play outcome from Table 2 is displayed for each selected football 130); and

a number of third selection picks (picks or selections 36) in the third selection group (footballs 130 associated with the defensive play type) corresponding at least in part to the displayed pick indicator (Figure 4B along with the related description thereof, wherein a player has a number of picks or selections 36 displayed as "remaining picks" available to the player from which the player can select footballs 130 associated with a certain play type and having a certain play outcome).

Regarding claim 11, Frohm et al. disclose that a plurality of award indicators are displayed after a plurality of first selections are picked (col. 6, lines 20-45, wherein a play outcome from Table 2 is displayed for each selected football 130).

Regarding claim 12, Frohm et al. disclose that a plurality of award indicators are displayed after a plurality of third selections are picked (col. 6, lines 20-45 and col. 7, lines 21-27, wherein a play outcome from Table 2 is displayed for each selected football 130).

Regarding claim 13, Frohm et al. disclose that a plurality of picks indicators ("remaining picks") are displayed after a plurality of second selections are picked (Figure 4B along with the related description thereof, wherein a plurality of picks 36 are displayed as "remaining picks" after a plurality of footballs 130 associated with the pass play type are picked).

Regarding claim 14, Frohm et al. disclose that a plurality of award indicators are displayed, wherein for each of the third selections picked, one of the award indicators is displayed (col. 6, lines 20-45 and col. 7, lines 21-27, wherein a play outcome from Table 2 is displayed for each selected football 130 associated with a defensive play type).

Regarding claims 17, 18 and 19, Frohm et al. disclose that the first, second and third selections are player selectable (Figure 4B along with the related description thereof, wherein footballs 130 are player selectable as described in col. 5, line 65 to col. 6, line 1).

Finally, Frohm et al. disclose a gaming method as recited in claim 33. The disclosed gaming method comprises:

displaying a first selection group (run play type of col. 5, line 63 to col. 6, line 12) including a plurality of first selections (footballs 130 associated with the run play type of Figure 4B along with the related description thereof, wherein the play type for each player selectable football 130 is written over the footballs 130 as described in col. 6, lines 1-3);

displaying at least one award indicator (play outcome from Table 2 of col. 6) after one of the first selections (footballs 130 associated with run play type) is picked (col. 6,

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lines 20-45, wherein a play outcome from Table 2 is displayed for each selected football 130);

displaying a second selection group (pass play type of col. 5, line 63 to col. 6, line 12) including a plurality of second selections (footballs 130 associated with the pass play type of Figure 4B along with the related description thereof, wherein the play type for each player selectable football 130 is written over the footballs 130 as described in col. 6, lines 1-3);

displaying at least one picks indicator ("remaining picks") adapted to be displayed after one of the second selections is picked (Figure 4B along with the related description thereof);

displaying a third selection group (defensive play type of col. 7, lines 21-27) including a plurality of third selections (footballs 130 associated with the defensive play type); and

displaying at least one award indicator (play outcome from Table 2 of col. 6) after one of the third selections (footballs 130 associated with defensive play type) is picked (col. 6, lines 20-45 and col. 7, lines 21-27, wherein a play outcome from Table 2 is displayed for each selected football 130), wherein a number of third selection picks (picks or selections 36) in the third selection group (footballs 130 associated with the defensive play type) corresponds at least in part to the displayed pick indicator (Figure 4B along with the related description thereof, wherein a player has a number of picks or selections 36 displayed as "remaining picks" available to the player from which the

player can select footballs 130 associated with a certain play type and having a certain play outcome).

Regarding claim 34, Frohm et al. disclose that a plurality of award indicators are displayed after a plurality of first selections are picked (col. 6, lines 20-45, wherein a play outcome from Table 2 is displayed for each selected football 130).

Regarding claim 35, Frohm et al. disclose that a plurality of award indicators are displayed after a plurality of third selections are picked (col. 6, lines 20-45 and col. 7, lines 21-27, wherein a play outcome from Table 2 is displayed for each selected football 130).

Regarding claim 36, Frohm et al. disclose that a plurality of picks indicators ("remaining picks") are displayed after a plurality of second selections are picked (Figure 4B along with the related description thereof, wherein a plurality of picks 36 are displayed as "remaining picks" after a plurality of footballs 130 associated with the pass play type are picked).

Regarding claim 37, Frohm et al. disclose that a plurality of award indicators are displayed, wherein for each of the third selections picked, one of the award indicators is displayed (col. 6, lines 20-45 and col. 7, lines 21-27, wherein a play outcome from Table 2 is displayed for each selected football 130 associated with a defensive play type).

Regarding claims 40, 41, 42, Frohm et al. disclose that the first, second and third selections are player selectable (Figure 4B along with the related description thereof, wherein footballs 130 are player selectable as described in col. 5, line 65 to col. 6, line 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 15, 16, 21, 22, 27, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frohm et al. in view of Randall (UK Patent Application, GB 2,333,880).

Frohm et al. teach a gaming device and method, as described above with respect to claims 1, 10, 20 and 33, that includes first, second and third selection groups including a first, second and third plurality of selections, respectively. However, Frohm et al. do not explicitly teach a gaming device or method which includes at least one advance indicator that is displayed after one of the first or second selections is picked. In a related gaming device and method, Randall teach five award groups 22-26 from which one or more awards 32 are selected by a player selectable control 27-31 (Figure 2 along with the related description thereof). The award groups 22-26 are arranged one above one another and the award values included therein increase upwardly (page 8, lines 20-21). In each award group 22-25, the awards 32 can include keys (advance indicators) which transfer player selection to a higher award group, e.g., from award group 22 having lower value awards 32 to award group 23 having higher value awards 32 (page 10, lines 9-12). The player can select awards from award group 22 until selecting a key or advance indicator. Selection of a key (advance indicator) in award

group 22 transfers the player selection to another award group 23-26. In this manner, a player can select awards 32 from different award groups 22-26 having different values (wherein award group 26 includes awards 32 of a higher value than awards 32 of award group 22) via movement from one award group to another award group (page 4, lines 12-17). The enhanced possibility for players to achieve higher awards increases player excitement while playing the game (page 10, line 22 to page 11, line 2). It would have been obvious for one skilled in the art at the time of the invention to incorporate different award groups 22-26 having different value awards along with keys (advance indicators) for movement between the different award groups as taught by Randall into the gaming device and method taught by Frohm et al. in order to increase player excitement while playing the game as desirably taught by Randall on page 10, line 22 to page 11, line 2.

7. Claims 31, 32, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frohm et al. in view of Olsen (U.S. Patent No. 6,217,448).

Frohm et al. teach a method for operating a gaming device having a game operable upon a wager as described above with respect to claims 20 and 33. Additionally, Frohm et al. teach awarding a jackpot for rare game accomplishments (col. 8, lines 5-9). However, Frohm et al. do not explicitly teach operating the gaming device through a data network including an internet as recited in claims 31, 32, 43 and 44. In a related gaming method, Olsen teaches a bonus system 10 that connects a plurality of gaming machines G to provide jackpot bonuses to selected eligible gaming machines S during bonus periods (col. 4, line 66 to col. 5, line 8). The gaming machines G are interconnected to a controller 30 over a communication network 32 which includes an

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internet or other network (col. 5, lines 18-53). Olsen teaches that gaming machines linked together to provide common awards or jackpots were developed in order to attract more players to such gaming machines while increasing excitement of play of those gaming machines (col. 1, lines 53-60). It would have been obvious for one skilled in the art at the time of the invention to operate the gaming method taught by Frohm et al. including awarding of jackpots over a data network including the internet in order to attract more players to gaming devices implementing the method of Frohm et al. while increasing excitement during play of those gaming devices as desirably taught by Olsen in col. 1, lines 53-60.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is listed on the attached Notice of References Cited (PTO-892).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jason Skaarup whose telephone number is 571-272-4455. The Examiner can normally be reached on Monday-Thursday (10:00-8:00).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Primary, Jessica Harrison can be reached at 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JESSICA HARRISON
PRIMARY EXAMINER